

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10490 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J D PATEL HIGH SCHOOL

Versus

STATE OF GUJARAT

Appearance:

MR KM SHETH for Petitioner

MR RM DESAI for Respondent No. 1, 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 30/06/97

ORAL JUDGEMENT

Rule. Mr RN Desai learned advocate waives service on behalf of the respondents. At the request of the learned advocates, this petition is heard today.

The petitioner by way of this petition has challenged the order passed by the respondent no. 2 dated 20.11.1996 Annexure-A to the petition, whereby the respondent no. 2 has decided to deduct 25% of the amount

of grant payable to the petitioner. It is to be noted that the petitioner was required to absorb the surplus teacher Mr GV Zala which was not complied with, inspite of a clear direction issued to the petitioner school by the respondents.

Learned advocate Mr Seth appearing for the petitioner has contended that the respondent no. 2 is not entitled to deduct 25% of the total amount of grant as per Circular dated 21.5.1994 on which a reliance is placed does not authorise the respondents to deduct the grant at the rate of 25%. Clause-E of the said circular dated 21.5.1994 provides that the District Education Officer is entitled to deduct the amount by way of salary of the employees for a period for which he was not allowed to resum work from the amount of grant. IN substance, the respondent is entitled to pass an order for the amount of salary for a period for which the employee is not allowed to work from the amount of grant and it does not provides that the amount to be deducted from grant at a rate of deduction of grant to the extent of 25%. In the instant case, the petitioner's school has not allowed Mr Zala, a surplus teacher from 7.3.1996 to 31.8.1996 i.e. for a period of five months. In view of this, as per the circular dated 21.11.1996 the respondent is entitled to deduct the salary of five months from the amount of grant payable to the petitioner school.

In the result, this petition is allowed. The order at Annexure-A passed against the petitioner school is set aside, and it is declared that the respondent is entitled to deduct the amount of salary for a period of five months from the amount of grant payable to the petitioner-school. Rule is made absolute with no order as to costs.
